

1999 DRAFTING REQUEST

Bill

Received: 10/23/98

Received By: kuesejt

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing: him

This file may be shown to any legislator: NO

Drafter: kuesejt

May Contact:

Alt. Drafters:

Subject: State Government - miscellaneous  
Legislature - miscellaneous

Extra Copies: PJD-1

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Topic:

Privacy impact statements

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Instructions:

Per 1997 LRB-488911.

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Drafting History:

| <u>Vers.</u> | <u>Drafted</u>      | <u>Reviewed</u>     | <u>Typed</u>          | <u>Proofed</u> | <u>Submitted</u>         | <u>Jacketed</u>          | <u>Required</u> |
|--------------|---------------------|---------------------|-----------------------|----------------|--------------------------|--------------------------|-----------------|
| /?           | kuesejt<br>11/10/98 | gilfokm<br>11/10/98 |                       | _____          |                          |                          | State           |
| /1           |                     |                     | j frantze<br>11/11/98 | _____          | lrb-docadmin<br>11/11/98 | lrb-docadmin<br>11/20/98 |                 |

FE Sent For:

01-14-99

<END>

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FE Sent For:

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(Draft)

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**Topic:**

Privacy impact statements.

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**Instructions:**

Per 1997 LRB-4889/1

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|--------------|----------------|-----------------|--------------|----------------|------------------|-----------------|-----------------|
| 12/1         | kuesejt 11/10  | 11-11-10<br>KG  | 11/11        | 11/11          |                  |                 |                 |

FE Sent For:

<END>



(D NOTES)  
**State of Wisconsin**  
**1997 - 1998 LEGISLATURE**

-0663/1  
LRB-4889/1  
JTK: hmh  
kg

**1997 BILL**

*Sen. Cox.*

1     **AN ACT to create** 13.0991 of the statutes; **relating to:** preparation of privacy  
2             impact statements for bills that would impact personal privacy.

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***Analysis by the Legislative Reference Bureau***

This bill provides that whenever a bill is introduced in either house of the legislature that would have an impact upon personal privacy, any standing committee to which the bill is referred must not hold a public hearing on the bill or report the bill until a privacy impact statement is prepared and received. The statement is prepared by one or more state agencies or authorities, as determined by the department of administration. The statement describes the impact upon personal privacy that would result from enactment of the bill and analyzes the desirability of that impact from the standpoint of public policy. The bill also permits either house of the legislature, under rules of that house or joint rules, to request the department of administration to order the preparation of a privacy impact statement with respect to any bill before that house, either in its original form or as affected by one or more amendments.

Under the bill, a bill has an impact on personal privacy if the bill would:

1. Provide for the creation of additional personally identifiable information that is not readily available to the public at the time the bill is introduced.
2. Create an activity that would constitute an intrusion upon the privacy of an individual, or alter an activity in such a way as to create such an intrusion.
3. Utilize the name, picture or likeness of an individual without the consent of the individual, or the consent of the individual's parent or guardian if the individual is a minor; or

**BILL**

4. Permit or cause publicity to be given to the private life of an individual.  
For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

- 1           **SECTION 1.** 13.0991 of the statutes is created to read:
- 2           **13.0991 Privacy impact statements. (1)** In this section:
- 3           (a) ‘Authority’ means a body created under ch. 231, 232, 233, 234 or 235.
- 4           (b) ‘Impact upon personal privacy’ means that a bill would do one or more of
- 5 the following:
- 6           1. Provide for the creation of additional personally identifiable information
- 7 that is not readily available to the public at the time the bill is introduced.
- 8           2. Create an activity that would constitute an intrusion upon the privacy of an
- 9 individual, or alter an activity in such a way as to create such an intrusion.
- 10           3. Utilize the name, picture or likeness of an individual without the consent of
- 11 the individual, or the consent of the individual’s parent or guardian if the individual
- 12 is a minor.
- 13           4. Permit or cause publicity to be given to the private life of an individual.
- 14           (c) ‘Personally identifiable information’ has the meaning given under s. 19.62
- 15 (5).
- 16           (d) ‘State agency’ means an office, department, independent agency,
- 17 institution of higher education, association, society or other body in state
- 18 government created or authorized to be created by the constitution or any law, which
- 19 is entitled to expend moneys appropriated by law, including the legislature and the
- 20 courts, but not including an authority.

**BILL**

1           (2) (a) Whenever a bill is introduced in either house of the legislature that  
2 would have an impact upon personal privacy, the legislative reference bureau shall  
3 promptly transmit a copy of the bill to the department of administration.

4           (b) Either house of the legislature may, under rules of that house or joint rules  
5 of the legislature, request the department of administration to order the preparation  
6 of a privacy impact statement with respect to any bill before that house, either in its  
7 original form or as affected by one or more amendments. If a house so requests, the  
8 chief clerk of that house shall thereupon transmit a copy of that bill and any affected  
9 amendments to the department of administration.

10           (3) Upon receipt of a bill under sub. (2), the department of administration shall  
11 direct one or more state agencies or authorities to prepare a privacy impact  
12 statement with respect to that bill. Each privacy impact statement shall describe the  
13 impact upon personal privacy that would result from enactment of the bill and  
14 analyze the desirability of that impact from the standpoint of public policy.

15           (4) Each state agency or authority receiving a bill under sub. (3) shall provide  
16 the statement required under sub. (3) to the department of administration within 15  
17 days of the department's directive.

18           (5) Upon receiving a privacy impact statement under sub. (4), the department  
19 of administration shall provide one copy to the legislative reference bureau, one copy  
20 to the principal author of the bill and one copy to the chief clerk of the house of the  
21 legislature in which the bill originated. The chief clerk shall thereupon print and  
22 distribute the statement in the same manner as amendments to the bill are printed  
23 and distributed.

24           (6) Whenever a bill requires preparation of a privacy impact statement under  
25 this section, the legislative reference bureau shall include a notation to that effect

**BILL**

1 on the jacket of the bill when the jacket is prepared. If the preparation of a privacy  
2 impact statement is requested by a house of the legislature, the chief clerk of that  
3 house shall include a notation to that effect on the jacket of the bill.


4 (7) Whenever a privacy impact statement is required or requested for any bill  
5 under this section, any standing committee to which the bill is referred shall not hold  
6 a public hearing on the bill or report the bill until the statement is received by the  
7 chief clerk of the house in which the bill originated.

8 **SECTION 2. Initial applicability.**

9 (1) This act first applies with respect to bills introduced in the  
10 legislative session.

2001-2003  
1999-2001

11 **(END)**





**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-4889/1dn <sup>5/1dn</sup>

JTK:jlg:hmh

KG

← Thursday, February 26, 1998 →

The language of proposed s. 13.0991 (7) to the effect that a bill for which a privacy impact statement is required or requested may not be heard or reported by a standing committee to which the bill is referred until the statement is received creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See State *ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

Jeffery T. Kuesel  
Assistant Chief Counsel  
266-6778

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0663/1dn

JTK:kg:jf

November 11, 1998

The language of proposed s. 13.0991 (7) to the effect that a bill for which a privacy impact statement is required or requested may not be heard or reported by a standing committee to which the bill is referred until the statement is received creates a rule of procedure under article IV, section 8, of the constitution. The supreme court has held that the remedy for noncompliance with this type of provision lies exclusively within the legislative branch. See *State ex rel. La Follette v. Stitt*, 114 Wis. 2d 358, 363-369 (1983). In other words, while this type of provision may be effective to govern internal legislative procedure, the courts will not enforce this type of provision and it does not affect the validity of any enactment resulting from a procedure that may be viewed as contravening the provision.

Jeffery T. Kuesel  
Assistant Chief Counsel  
**266-6778**



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

**Date:** 11/11/98

**To:** Representative Schneider

**Relating to LRB drafting number: LRB-0663**

**Topic**

Privacy impact statements

**Subject(s)**

State Government - miscellaneous, Legislature - miscellaneous

1. JACKET the draft for introduction \_\_\_\_\_

*MAX*

in the **Senate** or **the Assembly** (check only one). Only the requester under whose name the drafting request is entered in the **LRB's** drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. REDRAFT. See the changes indicated or attached \_\_\_\_\_

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Jeffery T. Kuesel, Assistant Chief Counsel  
Telephone: (608) 266-6778